

Peggy A. Tomsic (3879)

tomsic@mgpclaw.com

Kennedy D. Nate (14266)

nate@mgpclaw.com

MAGLEBY CATAKINOS & GREENWOOD

170 South Main Street, Suite 1100

Salt Lake City, Utah 84101-3605

Telephone: 801.359.9000

Facsimile: 801.359.9011

Attorneys for Plaintiff, Nutraceutical
Corporation

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

**NUTRACEUTICAL CORPORATION, a
Delaware corporation, and
NUTRAMARKS, INC., a Delaware
corporation,**

Plaintiffs,

v.

**PEACEFUL PLANET, LLC, a Rhode
Island limited liability company,**

Defendant.

**COMPLAINT AND DEMAND FOR JURY
TRIAL**

Case No.: 2:16-cv-01036-DB

Honorable Dee Benson

Plaintiffs Nutraceutical Corporation and NutraMarks, Inc. (collectively "Plaintiffs" or "Nutraceutical") through counsel MAGLEBY CATAKINOS & GREENWOOD, allege and complain against Defendant Peaceful Planet, LLC ("Defendant" or "Peaceful Planet") as follows:

NATURE OF THE ACTION

1. In this action, Plaintiffs seek injunctive and monetary relief for trademark infringement and unfair competition under the Federal Trademark Act, 15 U.S.C. § 1051

et seq., violation of the Utah Unfair Competition and Practices Acts, Utah Code Ann. § 13-5-101 *et seq.*

PARTIES

2. Plaintiff Nutraceutical corporation is a Delaware corporation with its principal place of business at 1400 Kearns Boulevard, Park City, Utah 84060.

3. Plaintiff NutraMarks, Inc. is a Delaware Corporation having its principal place of business at 1500 Kearns Boulevard, Park City, Utah, 84060. NutraMarks is a wholly-owned subsidiary of Nutraceutical Corporation and owns the trademark rights and assets used by Nutraceutical Corporation.

4. Defendant Peaceful Planet, LLC is a Rhode Island limited liability company with its principal place of business at 20 Benjamin Reynolds Road, West Greenwich, Rhode Island, 02817.

JURISDICTION AND VENUE

5. This action arises under the Federal Trademark Act, 15 U.S.C. § 1051 *et seq.*, the Utah Unfair Competition and Practices Acts, Utah Code Ann. § 13-5-101 *et seq.*

6. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338, and 1367.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) because Defendant's contacts with Utah are sufficient to create personal jurisdiction over Defendant in Utah and because a substantial part of the events giving rise to the claims in this action occurred within this District.

8. This Court has personal jurisdiction over the Defendant because it has continuous and systematic general business contacts with Utah.

9. Personal jurisdiction exists over Defendant for at least the following reasons: Defendant has an interactive website that allows customers from any jurisdiction, including Utah, to order products; Defendant has systematically advertised its products in Utah through, among others, its interactive website and the use of other internet based platforms, such as social media and actually has followers from this District; Defendant is infringing on a trademark owned by Plaintiffs that Defendant knew would harm Plaintiffs in this District; and Defendant has continued to use its infringing mark even after receiving notice that it was infringing on a Plaintiffs' trademark, thus, the brunt of harm suffered by Plaintiffs based on Defendant's continued and unlawful use of an infringing trademark has been suffered by Plaintiffs in this District.

FACTUAL ALLEGATIONS

10. Nutraceutical (directly and through their subsidiaries) manufactures, distributes, and sells a wide variety of nutritional and dietary supplements, cosmetic products, personal care products, and therapeutic topical products in health and natural food stores and similar outlets nationwide.

Registration and Use of the PEACEFUL PLANET Trademark

11. Since at least as early as 1997, Plaintiffs have used the PEACEFUL PLANET trademark throughout the United States in connection with the advertising, promotion, and sale of dietary supplements.

12. On April 18, 2003, Plaintiffs filed for registration of the PEACEFUL PLANET trademark with the United States Patent and Trademark Office.

13. The PEACEFUL PLANET trademark was duly registered on October 12, 2004. A true and correct copy of the Registration Certificate of the Mark is attached hereto as Exhibit "1" and is hereby incorporated by this reference.

14. This registration constitutes constructive notice to all other parties of Plaintiffs' ownership of the PEACEFUL PLANET mark pursuant to 15 U.S.C. § 1072.

15. Nutraceutical's federal registration and common law rights in the PEACEFUL PLANET mark are collectively referred to as the "PEACEFUL PLANET Mark."

16. Since at least as early as 1998, Plaintiffs have invested significantly to develop, promote, and maintain the PEACEFUL PLANET Mark throughout the United States.

17. As a result of substantial sales and extensive advertising and promotion, the PEACEFUL PLANET Mark has become widely and favorably known as identifying Nutraceutical's dietary and nutritional supplements, and has become an intellectual property asset of considerable value.

Defendant's Infringement of Plaintiffs' Mark and Cybersquatting

18. Upon information and belief, Defendant began using an infringing mark in or around 2008.

19. Around this same time, Defendant began using the infringing mark in its business of marketing and selling nutritional products and supplements after the

PEACEFUL PLANET Mark was first used in commerce by Plaintiffs and after registration of the PEACEFUL PLANET Mark.

20. In addition, Defendant created and registered various domain names unlawfully using the PEACEFUL PLANET Mark. These infringing domains include, without limitation, www.peaceful-planet.com, www.peacefulplanet.com, and <https://peacefulplanetblog.wordpress.com> (the “Domains”).

21. As set forth in the Domains,

Peaceful Planet is a dietary supplement and environmentally-friendly product supplier dedicated to promoting global health and wellness through nutrition and lifestyle changes. **We started out in 2008** as a website dedicated to giving information on how to "go green without spending a lot of green." Like a caterpillar turning into a butterfly, we morphed into an online retail store dedicated to **bringing quality supplements** and environmentally-friendly products to our customers.

Owners Kerrie and John Bross don't just sell healthy supplements and green products – we actually live this way. We recycle everything, use cloth napkins and rags, and have beautiful organic fruit and vegetable gardens. John has spent years researching and utilizing cover crops to enhance the fertility of our soil without the use of chemicals. We ourselves take many of the supplements we sell as well as give them to our two children to keep them healthy and support them when they're sick. Living green and minimizing toxin intake is a part of our daily lives and we strive to help others to do the same.

Peaceful Planet partners with the top manufacturers of natural vitamins and supplements on the market to bring you the very best health and wellness products available. The brands we sell reflect our mission to do our part for the planet and the people who live here. We look for products that are organic, fair-trade, wild-harvested, grass-fed and sustainably-harvested. Our vitamins and minerals are not derived from pharmaceutical-grade synthetics, as it is our philosophy that these essential nutrients cannot simply be manufactured, only harvested from naturally-growing plants. We only recommend natural supplements created from unrefined, freeze-dried plant sources and cold-pressed healthy oils. At Peaceful Planet, you will find the most potent whole food supplements available, made from the earth's finest ingredients. We also

carry a diverse green living line of reusable home goods and water filtration systems. Many of the brands we sell also have environmentally-friendly practices in their businesses. These practices may be as simple as paper recycling or may involve major initiatives such as using wind power at the production plant.

Our guarantee is that everything you will find at Peaceful Planet is good for you and good for the planet. That means that we source only all natural, pure supplements [sic] and non-toxic, bpa-free products from manufacturers with the strictest environmental and fair-trade practices for our Peaceful Planet store. Visit us at www.peaceful-planet.com and get ready to make some positive changes in your life and our world!

See PEACEFUL PLANET, <http://www.peaceful-planet.com/about-us/> (last visited October 6, 2016) (emphases added).

22. Plaintiffs have not assigned or otherwise agreed to allow Defendant to use the PEACEFUL PLANET Mark.

Plaintiffs Demand that Defendant Cease its Infringing
Use of the PEACEFUL PLANET Mark

23. After learning of Defendant's unlawful use of the PEACEFUL PLANET Mark, Plaintiffs sent a demand letter (the "Demand Letter") to Defendant on April 3, 2015. A true and correct copy of the Demand Letter is attached hereto as Exhibit "2" and is hereby incorporated by this reference.

24. Plaintiffs informed Defendant of its infringing activity and demanded that Defendant immediately cease its unlawful use of the PEACEFUL PLANET Mark, including by shutting down its Domains.

25. Defendant did not respond to the Demand Letter or cease its unlawful use of the PEACEFUL PLANET Mark.

26. On July 27, 2015, Plaintiffs sent a final demand letter ("Final Demand Letter") to Defendant once again informing Defendant of its infringing activity and demanding that Defendant immediately cease its unlawful use of the PEACEFUL PLANET Mark. A true and correct copy of the Final Demand Letter is attached hereto as Exhibit "3" and is hereby incorporated by this reference.

27. Plaintiffs warned Defendant that if it did not immediately cease its infringing activity, Plaintiffs would file suit to protect the PEACEFUL PLANET Mark.

28. Defendant did not respond to the Final Demand Letter and has continued to use its infringing Domains to market and sell dietary and nutritional supplements.

29. Due to the similarity in the marks, the products, the trade channels, and other relevant factors, Defendant's use of and attempt to register PEACEFUL PLANET is likely to cause confusion among consumers as to the source, origin, or affiliation of Defendant's products.

30. Defendant's infringing use of the PEACEFUL PLANET Mark began subsequent to Nutraceutical's first use and registration of the PEACEFUL PLANET Mark.

31. Upon information and belief, Defendant's acts, in adopting its PEACEFUL PLANET mark despite having at least constructive knowledge of Plaintiffs' PEACEFUL PLANET Mark, were knowingly, deliberately, and intentionally carried out in bad faith, or with a reckless disregard for, or with willful blindness to, Plaintiffs' rights, for the purpose of causing confusion and/or trading on the PEACEFUL PLANET Mark and Plaintiffs' reputation and goodwill associated with the PEACEFUL PLANET Mark.

32. Indeed, Defendant's continued use of the infringing PEACEFUL PLANET Mark after receiving the Demand Letter and the Final Demand Letter further establishes that Defendant's unlawful use of the PEACEFUL PLANET Mark is knowing and willful.

33. Upon information and belief, Defendant has profited and continues to profit from its unlawful acts.

34. The intentional nature of Defendant's unlawful acts renders this an exceptional case, thereby entitling Plaintiffs to exemplary and/or punitive damages under 15 U.S.C. § 1117(a) and applicable statutory and common law.

**FIRST CLAIM FOR RELIEF
(Trademark Infringement – 15 U.S.C. § 1114)**

35. Plaintiffs hereby incorporate by reference the allegations contained in the above paragraphs.

36. Defendant does not have authorization to use the PEACEFUL PLANET Mark.

37. The Mark is distinctive and entitled to protection as a trademark pursuant to 15 U.S.C. § 1127.

38. Plaintiffs own the Mark, and the Mark has been properly registered with the United States Patent and Trademark Office.

39. Registration of the Mark constitutes *prima facie* evidence of the validity, ownership, and right to exclusive use of the Mark, and provides constructive notice of ownership.

40. Defendant has used and continues to use the Mark in connection with the sale, offering for sale, distribution, or advertising of goods or services, including with regard to goods that directly compete with goods offered by Plaintiffs.

41. Defendant's continued use of the Mark is likely to cause confusion among consumers as to the source of the parties' respective goods and services.

42. Defendant's unauthorized use of the Mark is in violation of the Lanham Act, 15 U.S.C. § 1114(1).

43. Defendant's continued use of the PEACEFUL PLANET Mark is willful and/or in bad faith because Defendant received had both constructive and actual notice of Plaintiffs' ownership and registration of the PEACEFUL PLANET Mark.

44. As a direct and proximate result of Defendant's unauthorized use of the PEACEFUL PLANET Mark, Plaintiffs have suffered irreparable injuries and damages in an amount to be proven at trial.

45. Pursuant to 15 U.S.C. § 1116(a), Plaintiffs are entitled to an injunction prohibiting Defendant from further using the PEACEFUL PLANET Mark.

46. Pursuant to 15 U.S.C. § 1117(a), Plaintiffs are entitled to recover the profits Defendant has derived in connections with its unauthorized use of the PEACEFUL PLANET Mark.

47. Pursuant to 15 U.S.C. § 1117(a), Plaintiffs are entitled to recover its damages incurred as a result of Defendant's unauthorized use of the PEACEFUL PLANET Mark.

48. Pursuant to 15 U.S.C. § 1117(b), Plaintiffs are entitled to recover treble damages from Defendant.

49. Pursuant to 15 U.S.C. § 1117(a), Plaintiffs are entitled to recover the attorney fees and costs incurred in pursuing this claim.

SECOND CLAIM FOR RELIEF
(Unfair Competition under 15 U.S.C. § 1125(a) and (d) *et seq*)

50. Plaintiffs hereby incorporate by reference the allegations contained in the above paragraphs.

51. This is a claim for unfair competition, arising from Defendant's unlawful acts, including, without limitation, use of a false designation of origin which is likely to cause confusion, mistake, or deception as to origin, sponsorship, or approval, in violation of 15 U.S.C. § 1125(a), and Defendant's unlawful use of the PEACEFUL PLANET Mark in its Domains in violation of 15 U.S.C. § 1125(d).

52. Defendant's conduct constitutes an attempt to trade on the goodwill that Nutraceutical has developed in the PEACEFUL PLANET Mark.

53. By its conduct, Defendant has caused Plaintiffs irreparable harm, damage, and injury to the value and goodwill of Plaintiffs' PEACEFUL PLANET Mark, as well as to Plaintiffs' business, goodwill, and reputation.

54. Upon information and belief, Defendant will continue to commit the acts complained of in this Complaint unless restrained and enjoined by this Court.

55. Plaintiffs have no adequate remedy at law.

THIRD CLAIM FOR RELIEF
(Unfair Competition under Utah Code Ann. § 13-5a-101 *et seq.*)

56. Plaintiffs hereby incorporate by reference the allegations contained in the above paragraphs.

57. The PEACEFUL PLANET Mark is a registered trademark with the United States Patent and Trademark Office.

58. The "PEACEFUL PLANET Mark is owned by Plaintiffs.

59. Defendant has used and continues to use the PEACEFUL PLANET Mark in connection with the sale, offering for sale, distribution, or advertising of goods or services.

60. Defendant is not authorized to use the PEACEFUL PLANET Mark.

61. By reason of the foregoing, Defendant has engaged in unfair competition as defined by Utah Code Ann. section 13-5a-103.

62. As a direct and proximate result of Defendant's unauthorized use of the Marks and unfair competition, Plaintiffs have suffered damages in an amount to be proven at trial.

63. Defendant's actions constitute willful and malicious or intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference toward, and disregard of, the rights of Plaintiffs, which is therefore entitled to an award of punitive damages pursuant to Utah Code section 78B-8-201 and 13-5a-103.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the Court enter judgment against Defendant as follows:

1. Grant permanent injunctive relief enjoining Defendant and each of its principals, directors, agents, servants, employees, successors, and assigns, and all those in privity, concert, or participation with them, from:
 - a. imitating, copying, duplicating, manufacturing, producing, circulating, or otherwise making any use of the PEACEFUL PLANET Mark, or any mark confusingly similar to the PEACEFUL PLANET Mark, including but not limited to PEACEFUL PLANET;
 - b. using any unauthorized copy or colorable imitation of the PEACEFUL PLANET Mark, including but not limited to PEACEFUL PLANET, or using any false designation of origin or description, in such fashion as is likely to relate or connect Defendant with Plaintiffs or cause confusion;
 - c. engaging in any other activity constituting unfair competition or infringement of the PEACEFUL PLANET Mark or Plaintiffs' rights in, or to use, or to exploit the same; and
 - d. assisting, aiding, or abetting another person or business entity in engaging or performing any of the activities enumerated in paragraphs (a) – (c) above.
2. Find that Defendant is liable for the causes of action alleged against it in this Complaint.

3. Grant an order requiring Defendant and its principals, directors, agents, servants, employees, successors, and assigns, and all those in privity, concert, or participation with Defendant who receive actual notice of said order to deliver up, or at Plaintiffs' election, certify the destruction of all promotional, advertising, product, packaging, and any other materials of any kind bearing the PEACEFUL PLANET Mark and any other mark confusingly similar to the PEACEFUL PLANET Mark.

4. Award to Plaintiffs monetary damages in an amount to be fixed by the Court in its discretion as just including, but not limited to, all of the Defendant's profits or gains of any kind resulting from Defendant's willful infringement and/or acts of unfair competition, and any damages Plaintiffs suffered as a result of Defendant's actions, said damages to be trebled, and Plaintiffs' costs, exemplary damages, and reasonable attorney's fees in view of the intentional nature of the acts complained of in this Complaint and the exceptional nature of this case, pursuant to 15 U.S.C. § 1117(a)-(b), and applicable common law, state statute and federal law, including Utah Code Ann. §§ 13-5-14, 13-11-19, and 13-11a-4.

5. Order Defendant to conduct corrective advertising sufficient to inform the consuming public that there is no connection between Plaintiffs and Defendant.

6. Award Plaintiffs pre- and post-judgment interest on any monetary award made part of the judgment against Defendant.

7. Order forfeiture or cancellation of the Domains or the transfer of the Domains to Plaintiffs.

8. Grant to Plaintiffs such other and further relief as the Court may deem just, proper, and equitable under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all matters herein so triable.

DATED this 6th day of October, 2016.

MAGLEBY CATAXINOS & GREENWOOD



Peggy A. Tomsic
Edgar R. Cataxinos
Kennedy D. Nate
Attorneys for Plaintiff Nutraceutical Corporation

Exhibit “1”

Int. Cls.: 29 and 30

Prior U.S. Cl.: 46

United States Patent and Trademark Office

Reg. No. 2,893,239

Registered Oct. 12, 2004

**TRADEMARK
PRINCIPAL REGISTER**

PEACEFUL PLANET

NUTRAMARKS, INC. (DELAWARE CORPORATION)
1500 KEARNS BOULEVARD, SUITE B-200
PARK CITY, UT 84060

FOR: SOY BASED SNACKS; SOY BASED POWDER USED AS A NUTRITIONAL INGREDIENT IN BAKING, IN CLASS 29 (U.S. CL. 46).

FIRST USE 9-1-1997; IN COMMERCE 9-1-1997.

FOR: PROCESSED CEREALS; PROCESSED GRAINS; CEREAL-BASED FOOD BAR AND SNACK FOODS; RICE-BASED FOOD BARS AND SNACK FOODS; WHEAT-BASED FOOD BARS AND SNACK

FOODS; GRAIN-BASED FOOD BARS AND SNACK FOODS; GRANOLA-BASED FOOD BARS AND SNACK FOODS; RICE BASED SNACKS; FLAVORED SHAKE DRINK MIXES; LIQUID AND POWDERED HERBAL FOOD BEVERAGE MIXES, IN CLASS 30 (U.S. CL. 46).

FIRST USE 9-1-1997; IN COMMERCE 9-1-1997.

SER. NO. 78-239,633, FILED 4-18-2003.

KARANENDRA S. CHHINA, EXAMINING ATTORNEY

Exhibit “2”



12339 South 800 East
Suite 101 | Draper, Utah 84020
t: 801.416.0746 f: 801.606.7576
jeff@jmlpc.com

April 3, 2015

Peaceful Planet
Kerrie Bross
20 Benjamin Reynolds Road
West Greenwich, Rhode Island
02817
kerrie@peaceful-planet.com
PEACEFUL-PLANET.COM@domainsbyproxy.com

Re: PEACEFUL PLANET Trademark and Domain Name

Dear Mrs. Bross:

We represent Nutraceutical Corporation (“Nutraceutical”) in its intellectual property and enforcement matters. Nutraceutical is an industry-leading provider of nutritional and dietary supplements and related products that are offered through many of its subsidiary companies on a nationwide basis.

We are writing on behalf of our client to provide you with notice of our client’s prior and senior trademark rights in its PEACEFUL PLANET trademarks. Nutraceutical is concerned that your adoption and use of the PEACEFUL PLANET mark is likely to confuse consumers as to the affiliation, source or sponsorship of your sale of supplements and related services on your websites.

The PEACEFUL PLANET trademark is used to identify products related specifically to Nutraceutical. Nutraceutical, either itself or through one or more subsidiaries or predecessors including NutraMarks, Inc. holds the trademark registration with the United States Patent and Trademark Office for the PEACEFUL PLANET® mark in Classes 29 and 30 (Registration No. 2,893,239), which was registered on the Principal Registrar on October 12, 2004 and has been in use in commerce in the United States since as early as September 1, 1997 for a variety of nutritional products including supplements, nutritional and protein drink mixes, smoothie powders and drink mixes, whole food vitamin and minerals and similar products. Examples of these products can be found for sale on the Nutraceutical’s website, found at: www.nutraceutical.com/collections/healthy/veglife/. The PEACEFUL PLANET trademark is exclusively used by Nutraceutical and any other use by a third-party constitutes trademark infringement.

In addition, your registration of the domain names WWW.PEACEFULPLANET.COM, <https://peacefulplanetblog.wordpress.com> and WWW.PEACEFUL-PLANET.COM (the “Domains”), is a direct trademark infringement to the PEACEFUL PLANET registered trademark and is upheld by the Uniform Domains Dispute Policy of bad faith registration. The incorporation of Nutraceutical’s trademark in its entirety suggests Nutraceutical’s sponsorship or endorsement of your Domains, and correspondingly, your activities, located at www.peaceful-planet.com, www.peacefulplanet.com and <https://peacefulplanetblog.wordpress.com>. Nutraceutical is in no way affiliated with any of your Domains and has not authorized you to use the trademark.

April 3, 2015 | Page 2

Your registration of these Domains and use of the PEACEFUL PLANET trademark are creating and intentionally attempting to attract internet users and customers to your web site and online locations, by creating a likelihood of confusion with Nutraceutical's trademark for commercial gain. This confusion may cause substantial harm to the trademark by facilitating the loss of its effectiveness in establishing a distinct association between it, Nutraceutical's products and services and Nutraceutical's goodwill. This is in direct violation of the Anticybersquatting Consumer Protection Act, which makes you potentially liable for the registration or use of a domain name that is confusingly similar to or dilutive of a trademark. Under the Lanham Act (15 U.S.C. Chapter 12 § 1125 (d) (1) (B)(i)(V)) The Lanham Act also further provides that the protection of trademarks (§ 43(a)) is not limited to confusion "at the point of sale" and trademark violation exists simply from the initial consumer confusion.

Further protection by Federal Law, provides that your registration and use of this domain name in connection with diverting users to your personal websites may constitute trademark and service mark infringement, unfair competition, false advertising, passing off or dilution. In addition, your domain name registration is subject to the Internet Corporation for Assigned Names and Numbers ("ICANN") Uniform domain name Dispute Resolution Policy ("UDRP"), which is incorporated by reference into your service agreement with your domain name registrar, ENOM. The ICANN UDRP requires you to submit to a mandatory administrative proceeding if it becomes necessary for our client to challenge your registration.

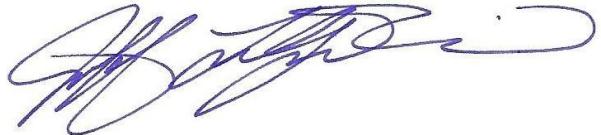
Nutraceutical vigorously protects its trademarks and other intellectual property. We trust that you will recognize our client's interest as the trademark holder. Nutraceutical demands, that you take immediate steps toward changing and/or abandoning its use, if any, of the PEACEFUL PLANET mark. At this stage, Nutraceutical is amenable to allowing you a reasonable phase-out period to cease use of the PEACEFUL PLANET trademark. Nutraceutical requests that you agree to take the following actions within ninety (90) calendar days:

1. Immediately and permanently refrain from all trademark use of the PEACEFUL PLANET trademark and any unauthorized use of any of Nutraceutical's proprietary material or any variation thereof that is likely to cause confusion or dilution.
2. Cease all advertisements of products, if any, under the PEACEFUL PLANET trademark;
3. Cease all sales of products, if any, under the PEACEFUL PLANET trademark; and
4. Agree to not use the PEACEFUL PLANET trademark or a confusingly similar mark, for any future products or advertising.
5. Immediately and permanently remove ALL Nutraceutical trademark use from your domain registrations, listed here or elsewhere and promptly work to remove all metatags, keywords, visible or hidden text including the trademark presently appearing on the aforementioned websites.

April 3, 2015 | Page 3

Nutraceutical looks forward to receiving your written assurances that you will comply with these requests by no later than May 1, 2015. Nutraceutical reserves the right to seek legal and equitable redress in the event you fail to comply with these requests. You may contact me directly if you wish to discuss any of these issues further.

Best regards,



Jeffery M. Lillywhite
Registered Patent Attorney

Exhibit “3”



12339 South 800 East
Suite 101 | Draper, Utah 84020
t: 801.878.9009 | f: 801.606.7576
jeff@jmlpc.com

JEFFERY M. LILLYWHITE, PC
Intellectual Property Law

July, 27, 2015

FINAL DEMAND.

Peaceful Planet
Kerrie Bross
20 Benjamin Reynolds Road
West Greenwich, Rhode Island
02817
kerrie@peaceful-planet.com
peaceful-planet.com@domainsbyproxy.com

Re: Infringement of Trademark Rights of NEUTRACEUTICAL CORPORATION (“NUTRACEUTICAL”).

Dear Mrs. Bross:

As you have been made aware, our law firm represents Nutraceutical in connection with its intellectual property rights. Nutraceutical’s cease and desist demand, of April 3, 2015, to immediately discontinue your use of “PEACEFUL PLANET” in connection with your goods and services and also in the aforementioned domain names, peacefulplanet.com, peaceful-planet.com and peacefulplanetblog.wordpress.com (the “Domains”) a violation of Nutraceutical’s common law trademark rights, common law service mark rights, and trade name rights, and this letter constitutes Nutraceutical’s final demand that you cease and desist any and all use of PEACEFUL PLANET.

Again, we assert that, the PEACFUL PLANET trademark, has senior and prior trademark rights in its PEACEFUL PLANET trademarks. Your registration of these Domains and use of the PEACEFUL PLANET trademark are creating and intentionally attempting to attract internet users and customers to your web site and online locations, by creating a likelihood of confusion with Nutraceutical’s trademark for commercial gain. This confusion may cause substantial harm to the trademark by facilitating the loss of its effectiveness in establishing a distinct association between it, Nutraceutical’s products and services and Nutraceutical’s goodwill.

The PEACEFUL PLANET trademark is used to identify products related specifically to Nutraceutical. Nutraceutical, either itself or through one or more subsidiaries or predecessors including NutraMarks, Inc. holds the trademark registration with the United States Patent and Trademark Office for the PEACEFUL PLANET® mark in Classes 29 and 30 (Registration No. 2,893,239 - attached), which was registered on the Principal Registrar on October 12, 2004 and has been in use in commerce in the United States since as early as September 1, 1997 for use with a variety of nutritional products including supplements, nutritional and protein drink mixes, smoothie powders and drink mixes, whole food vitamin and minerals and similar products. Examples of these products can be found for sale on the Nutraceutical’s website, found at: www.nutraceutical.com/collections/healthy/veglife/. The PEACEFUL PLANET trademark is exclusively used by Nutraceutical and any other use by a third-party constitutes trademark infringement.

July 27, 2015

Page 2

In addition, your registration of the Domains, is a direct trademark infringement of the PEACEFUL PLANET registered trademark and is upheld by the Uniform Domains Dispute Policy of bad faith registration. The incorporation of Nutraceutical's trademark in its entirety suggests Nutraceutical's sponsorship or endorsement of your Domains, and correspondingly, your activities. Nutraceutical is in no way affiliated with any of your Domains and has not authorized you to use the trademark.

Please be advised that this is Nutraceutical's final demand and will undertake all appropriate steps to protect its Marks and associated goodwill. Legal action can only be avoided by immediately ceasing and desisting from any and all infringing activity including use of the Domains. Within 10 (ten) days, we expect that you cease and desist all use in promotion and/or marketing of PEACEFUL PLANET on these domain names, or any confusingly similar use elsewhere. You are hereby put on notice that Nutraceutical will be monitoring your use of these domain names for this purpose. Additionally, you must execute a copy of this letter and send it to this firm within seven (7) days of the receipt of this letter. If you or your attorney have any questions, please feel free to contact me.

Notice Received:

Kerrie Bross or Representative

Date: _____

Best regards,



Jeffery M. Lillywhite
Registered Patent Attorney